AF 13623 _____

UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

EDWARD ALUN SKETCH

Serial No.: 09/681,784

Group Art Unit: 3623

Examiner: Stephen Byleiw

Filed: June 5, 2001

For: ONLINE METHOD AND SYSTEM FOR PROVIDING
       LEARNING SOLUTIONS FOR THE ELIMINATION
       OF FUNCTIONAL COMPETENCY GAPS

Attorney Docket No.: FMC 1339 PUSP (81048308)

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Mail Stop Appeal Brief - Patents
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

        This is an Appeal Brief from the final rejection of claims 1-20 of the Office

Action mailed on January 4, 2006, for the above-identified patent application.

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8 (FIRST CLASS MAIL)
I hereby certify that this paper, including all enclosures referred to herein, is being deposited with the United States Postal Service as first-class mail, postage pre-paid, in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, U.S. Patent & Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on

June 5, 2006	Benjamin C. Stasa	
Date of Deposit	Name of Person Signing	Signature

I. REAL PARTY IN INTEREST

The real party in interest is Ford Motor Company ("Assignee"), a corporation organized and existing under the laws of the state of Michigan, and having a place of business at The American Road, Dearborn, Michigan 48121, as set forth in the assignment recorded in the U.S. Patent and Trademark Office on June 5, 2001, Reel 011651/Frame 0402.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to the Appellant, the Appellant's legal representative, or the Assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-20 are pending in this application. Claims 1-20 have been rejected and are the subject of this appeal.

IV. STATUS OF AMENDMENTS

None.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 recites a method for reducing a functional competency gap. (Page 6, lines 24-25). The method includes defining an employment function and preferred method of learning, (Pg. 6, line 28 - Pg. 7, line 8), and assessing functional competency based on the employment function via an online self-assessment, (Pg. 7, lines 9 - 17). The method also includes identifying at least one gap between an assessed functional competency and a

predefined competency required for the employment function. (Pg. 8, line 23 - Pg. 9, line 7). The method further includes dynamically querying a database of available learning solutions to locate a learning solution that (i) is currently a best-in-class learning solution for reducing the at least one competency gap, and (ii) best matches the employee's preferred method of learning. (Pg. 9, lines 8-23). The method still further includes automatically defining a development plan for the employee including learning solution identified with the dynamic query. (Pg. 9, lines 8-23).

For the purposes of this appeal, independent claims 15 and 20 recite limitations similar to claim 1.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The Examiner rejected claims 1-9, 13, 15-16, 18, and 20 under 35 U.S.C. 103(a) as being unpatentable over Saba Software Learning Management System from 1997-2000 (Saba Software) aspects of which are evidenced by, *inter alia*, the following references:

I.   Saba Software web page from 6/21/2000: "Saba Learning Network, Enterprise Series," herein after referred to as Reference A.

II.   Burriesci, J. "It's All About The Knowledge" Intelligent Enterprise, August 24, 1999, pages 10 and 12; herein after referred to as Reference B.

The Examiner rejected claims 10, 17, and 19 under 35 U.S.C. 103(a) as being unpatentable over the Saba Software as applied to claims 1-10 and 13, and in further view of Collegebytes.com (1999).

The Examiner rejected claims 11-12 and 14 under 35 U.S.C. 103(a) as being unpatentable over the Saba Software as applied to claims 1-10 and 13, and in further view of U.S. Pat. No. 6,591,246 (Tuttle).

VII. ARGUMENT

A.   Claims 1, 15, and 20 are patentable over the Saba Software

Reference A and Reference B each fail to teach, disclose, or suggest that the Saba Software "automatically defin[es] a development plan for the employee including learning solution identified with the dynamic query" as claims 1, 15, and 20 each generally recite. Reference B indicates that the Saba Software "uses collaborative profiling to nonintrusively tailor lessons to individual learning styles, preferences, and knowledge . . .," (Reference B, Col. 1, line 41 - Col. 2, line 2), apparently once the user has already identified the "lesson." Reference B does not indicate that the Saba Software automatically defines which "lessons" a user should undertake. Reference A indicates that the Saba Software "lets [a user] find offerings specific to [the user's] industry, as well as offerings that are targeted for specific roles, certifications, and competencies." (Reference A, lines 21-22). Reference A similarly does not indicate that the Saba Software automatically defines which "offerings" a user should undertake.

Examiner fails to establish a *prima facie* case that "it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Saba Software to *dynamically* query a database of available learning solutions . . . ." As explained above, because Reference A and Reference B each fail to teach, disclose, or suggest that the Saba Software "automatically defin[es] a development plan for the employee including learning solution identified with the dynamic query" as claims 1, 15, and 20 each generally recite, there is no teaching or suggestion in Reference A or Reference B to modify the Saba Software to dynamically, *i.e.*, automatically, query a database of available learning solutions.

B.   Claims 2-14 and 16-19 are patentable over the Saba Software

Claims 2-14 and 16-19 depend respectively from claims 1 and 15. For at least the reasons claims 1 and 15 are patentable as set forth above, claims 2-14 and 16-19 are patentable. Claims 2-14 and 16-19 have limitations beyond claims 1 and 15 respectively providing further reason that claims 2-14 and 16-19 are patentable.

**C.   Claims 10, 17, and 19 are patentable over
the Saba Software in view of Collegebytes.com**

Examiner's argument finding a motivation to combine the Saba Software with Collegebytes.com because they "are in the analogous art of providing products and services to students" cannot establish a *prima facie* case of obviousness. "There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art." MPEP 2143.01. Examiner's argument effectively removes the motivation to combine requirement and allows any set of references to be combined by merely characterizing them as "analogous art."
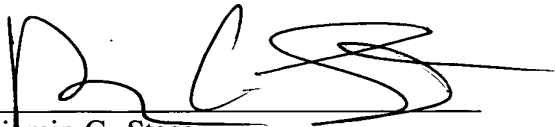
D.   Claims 11-12 and 14 are patentable over the Saba Software in view of Tuttle

Examiner's argument finding a motivation to combine the Saba Software with Tuttle because they "are analogous arts in the field of employee/workforce capability assessment and improvement" cannot establish a *prima facie* case of obviousness. "There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art." MPEP 2143.01. As explained above, Examiner's argument effectively removes the motivation to combine requirement and allows any set of references to be combined by merely characterizing them as "analogous art."

Please charge the fee of $500 as applicable under the provisions of 37 C.F.R. § 41.20(b)(2) to Ford Global Technologies' Deposit Account No. 06-1510. Additionally, please charge any additional fee or credit any overpayment in connection with this filing to Deposit Account No. 06-1510.

Respectfully submitted,

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Date: <u>June 5, 2006</u>

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Enclosure - Appendices

VIII. CLAIMS APPENDIX

1.   A method for reducing a functional competency gap, the method comprising:

defining an employment function and preferred method of learning;

assessing functional competency based on the employment function via an online self-assessment;

identifying at least one gap between an assessed functional competency and a predefined competency required for the employment function;

dynamically querying a database of available learning solutions to locate a learning solution that (i) is currently a best-in-class learning solution for reducing the at least one competency gap, and (ii) best matches the employee's preferred method of learning; and

automatically defining a development plan for the employee including learning solution identified with the dynamic query.

2.   The method of claim 1 wherein the at least one learning solution comprises classroom, software, online and on-the-job training learning activities.

3.   The method of claim 1 additionally comprising completing a learning activity associated with the at least one learning solution.

4.   The method of claim 3 additionally comprising evaluating the learning solution after completing the learning activity.

5.   The method of claim 3 additionally comprising evaluating best practices for implementing the at least one learning solution within a business unit.

6.   The method of claim 4 additionally comprising posting completed evaluations online for others to review.

7.   The method of claim 5 additionally comprising identifying roadblocks to the implementation of the learning solution within a business unit.

8.   The method of claim 3 additionally comprising completing an online examination after completing the learning solution to assess knowledge transfer during the learning activity.

9.   The method of claim 4 additionally comprising mining evaluation data to identify and make learning solution improvements.

10.   The method of claim 1 additionally comprising acquiring or selling learning solutions in an online auction format.

11.   The method of claim 1 additionally comprising mining online assessment data to identify preferred functional competencies for new employees.

12.   The method of claim 1 additionally comprising mining online assessment data to select current employees for a particular employment opportunity.

13.   The method of claim 1 additionally comprising assessing functional competency for an employment function other than an employee's current employment function.

14.   The method of claim 1 additionally comprising mining assessment data to select a group of employees having functional competencies necessary to perform a group-oriented task.

15.   An online system for identifying at least one learning solution to reduce a functional competency gap, the system being configured to:
        receive input defining an employment function and preferred method of learning;
        present an interactive assessment of functional competency based on the employment function;
        identify at least one gap between an assessed level of functional competency and a predefined level of competency required for the employment function;
        dynamically query a database of available learning solutions to locate a learning solution that (i) is currently a best-in-class learning solution for reducing the at least one competency gap, and (ii) best matches the employee's preferred method of learning; and
        automatically define a development plan for the employee including learning solution identified with the dynamic query.

16.   The system of claim 15 additionally configured to receive input defining: (i) interactive assessment content; (ii) learning solution content; and (iii) competency level requirements for the employment function.

17.   The online system of claim 15 additionally configured to host an online auction for the sale or purchase of learning solution content.

18.   The online system of claim 15 additionally configured to present an interactive learning solution.

19.   The online system of claim 17 additionally configured to facilitate mining employment function, competency assessment, competency gap, and evaluation data.

20.   A system for reducing a functional competency gap, the system comprising:

a means for defining an employment function and preferred method of learning;

a means for assessing functional competency for the employment function;

a means for identifying at least one gap between a functional competency assessment and a predefined level of functional competency required for the employment function;

a means for dynamically querying a database of available learning solutions to locate a learning solution that (i) is currently a best-in-class learning solution for reducing the at least one competency gap, and (ii) best matches the employee's preferred method of learning; and

automatically defining a development plan for the employee including learning solution identified with the dynamic query.

IX. <u>EVIDENCE APPENDIX</u>

None.

X. <u>RELATED PROCEEDINGS APPENDIX</u>

None.